

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 11 February 2008

Case No.: 2007-AIR-00011

In the Matter of:

RAYMOND M. MUDGE,

Complainant,

v.

KALITTA CHARTERS II, LLC,

Respondent.

**DECISION AND ORDER APPROVING WITHDRAWAL OF OBJECTIONS
AND ORDER CANCELLING HEARING**

This proceeding arises from a complaint filed by Raymond M. Mudge against Kalitta Charters II, LLC, arising under the whistleblower protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("Air 21"). 41 U.S.C. § 42121. On June 29, 2007, the Regional Administrator for the Occupational Safety and Health Administration issued findings concerning the complaint. Thereafter Complainant objected to said findings and requested a hearing pursuant to the provisions of 29 C.F.R. § 1979.106.

The undersigned set this case for hearing for March 19, 2008, in Ann Arbor, Michigan. On January 22, 2008, the parties filed a Stipulation for Dismissal with Prejudice, which provided in pertinent part that the parties have agreed to a stipulation for dismissal with prejudice and with all costs to be paid by the party incurring same.

The regulation at 20 C.F.R. § 1979.111(c) states that "[a]t any time before the findings or order become final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge" As I explained to both parties in a telephonic conference on February 8, 2008, I construe the request for dismissal as a request for withdrawal of Complainant's

objections to the June 29, 2007, Occupational Safety and Health Administration's findings. Accordingly,

IT IS HEREBY ORDERED that, the Complainant's objections to the June 29, 2007, OSHA findings are WITHDRAWN. Such findings shall constitute the final order of the Secretary of Labor.

IT IS FURTHER ORDERED that the hearing scheduled for March 19, 2008, in Ann Arbor, Michigan, is CANCELLED.

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LARRY S. MERCK
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. See 29 C.F.R. § 1979.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. See 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. See 29 C.F.R. § 1979.110(a).

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition

is filed notifying the parties that it has accepted the case for review. See 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).